

ORIGINAL

BEFORE THE
FEDERAL COMMUNICATIONS COMMISSION
WASHINGTON, DC 20554

JUN 14 2000
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 FEDERAL COMMUNICATIONS COMMISSION

In the Matter of)	
)	
Amendment of Section 73.202(b))	MM Docket 00-63
Table of Allotments)	RM - 9387
FM Broadcast Stations)	
(Greenville and Cooper, Texas))	

To: Chief, Allocations Branch
 Policy and Rules Division
 Mass Media Bureau

REPLY COMMENTS

KRBE LICO, Inc. ("KIKT"), licensee of Station KIKT(FM), Greenville, Texas, by its counsel, hereby replies to the Comments filed by The City of Greenville and by Cooper Radiocasting Company. The City of Greenville opposes the removal of its FM station. However, as will be demonstrated, Commission case law supports the KIKT proposal for a first local service at Cooper. In support hereof, KIKT states as follows:

1. The City of Greenville ("City") argues that a second local service at Greenville should be favored over a first local service at Cooper. The City bases its argument on the population disparity between the two communities, the fact that the remaining AM Station KGVL will not provide a sufficient signal at night over Greenville, that a portion of the loss area will have four reception services remaining and that KIKT's parent company owns another station that will benefit from the move to Cooper.

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2. Pursuant to Section 1.420(i), of the Commission's Rules, the Commission evaluates the proposed change in community of license by making a determination as to whether a preferential arrangement of allotments will result. See Modification of FM and TV Authorizations to Specify a New Community of License ("Change of Community") 4 FCC Rcd 4870 (1989), recons. granted in part 5 FCC Rcd 7094 (1990). In Community of License cases, the Commission has used the FM allotment priorities set forth in Revision of FM Assignment Policies and Procedures 90 FCC 2d 88 (1982) to decide whether a proposed community of license change results in a preferential arrangement. In cases too numerous to mention, a first local service (Priority 3) is favored over a second local service (Priority 4). The disparity in population between the two communities in question has not been a factor as long as the community receiving its first local service qualifies as a community. See e.g., Fredericksburg and Helotes, Texas 10 FCC Rcd 6580 (1995), recons. granted 11 FCC Rcd 22317 (1996). Here, there is no allegation that Cooper is not deserving of a first local service. Rather the City contends that Cooper should not receive a first local service at the expense of Greenville retaining its second local service. However, Commission case law does not support the City's position.

3. For example, Marion and Orrville, Alabama, 6 FCC Rcd 3482 (1991) the Commission granted the change in community of license even though there was a large population disparity and the former community of license was left with a daytime only AM - Marion (population 4,467) to Orrville (population 349). More recent cases involving similar circumstances include Mullins and Briarcliff Acres, South Carolina, 14 FCC Rcd 10516 (1999) (allowing reallocation from community of 5,910 with one daytime only AM station remaining, to a community of 552), Winslow and Mayer, Arizona, DA 00-1146 (released 5/26/00) (reallocation approved from community of 8,190 with AM station of 1 kW day/night remaining, to a community of 1,500); Fredericksburg and

Helotes, Texas supra (allowing reallocation from community of 6,934 with daytime only AM station remaining to a community of 1,535 persons.

4. Other cases involving a large population disparity where the Commission approved the reallocation include Oshkosh, Winnecome and Townsend, Wisconsin and Menomonee, Michigan 10 FCC Rcd 2085 (1995) (allowing reallocation from city of 57,000 to city of 2,059); Pine Bluff and Maumelle, Arkansas, 6 FCC Rcd 5119 (1991) (allowing reallocation from city of 56,636 to city of 5,704); Paragould and Lake City, Arkansas, 6 FCC Rcd 3325 (1991) (allowing reallocation from city of 15,214 to city of 1,842); Lemoore and Tipton, California, 6 FCC Rcd 2593 (1991) (allowing reallocation from city of 8,832 to city of 1,185); Jessup and Midway, Georgia, 6 FCC Rcd 2196 (1991) (allowing reallocation from city of 9,418 to city of 457). See also Ravenwood and Elizabeth, West Virginia, 10 FCC Rcd 3181 (1995); Moncks Corner and Kiawah Island, South Carolina, (DA 00-1112), released 5/19/00.

5. This proposal is also similar to Pauls Valley, Oklahoma et al., 13 FCC Rcd 13458 (1998) where the Commission approved the reallocation of a channel from Mt. Pleasant, Texas with a population of 12,291 to Overton, Texas with a population of 2,105 despite the fact that Mt. Pleasant would only have a daytime AM station remaining. See also Johnstown and Altamont New York, 13 FCC Rcd 12463 (1998).

6. The City of Greenville cites no cases where a second local service was favored over a first local service due to the population disparity or due to the fact that the remaining AM station does not provide sufficient service at night.¹

1. The only case cited by the City was Blanchard and Sulphur, Louisiana which involved a comparison of Priority 3 communities each seeking a first local service.

7. The City of Greenville contends that the Commission should treat Greenville as a Priority 3 community under the theory that Station KGV(L)(AM), licensed with 1 kW day and night, does not cover the entire community with its nighttime interference free (“NIF”) contour. However as demonstrated in the attached engineering statement, the nighttime signal does provide an NIF contour to over 80% of the community and over 95% of the residents of Greenville which constitutes full time service under the Commission’s Rules. Furthermore, KIKT has already cited several cases where leaving even a daytime only AM station in the community justified removal of the only FM station. See e.g., Fredericksburg and Helotes, Texas supra; Mullins and Briarcliff Acres, South Carolina., supra; and Pauls Valley, Oklahoma, et al., supra.

8. The City also contends that a portion of the proposed loss area will have only four aural services remaining. However, the City failed to include Station KLIF(AM), Dallas, which has an NIF contour covering the alleged area of four aural services. See attached Engineering Statement, Figure 1. Thus, the entire loss area is covered by at least five aural services. In the event the Commission believes this level of service in the loss area is still inadequate, KIKT demonstrates in the attached Technical Exhibit that it can use a different transmitter site reference point for Channel 228C3 at Cooper at 33° 14” 16’/95° 47” 50’ and cover the portion of the loss area alleged to have only four services remaining and still provide a 70 dBu signal to all of Cooper. See Figures 3 and 4. From this new reference point, KIKT can also provide a 60 dBu signal over all of Greenville. See Figure 4.²

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2. The City of Greenville also asserted that KIKT could have proposed the allotment of Channel 259A to Cooper in MM Docket 99-287. However as indicated in the Technical Exhibit, Figure 2, Channel 259A can not be allotted to Cooper within the Class A contour distance of 16.2 km. Even if this channel were a possible candidate for allotment to Cooper, it would not be preferable to allot Channel 259A at Cooper at the expense of a first local service to Sulphur Bluff when Channel 228C3 can be allotted to Cooper. Furthermore, KIKT could
- (continued...)

9. Contrary to the City's belief that it will suffer from a lack of coverage of community news and events, KIKT is a responsible broadcaster with an excellent reputation in the broadcast community. It will continue to program to serve the needs of Greenville on KGV(LAM). The City's assertions as to KIKT's real purpose in relocating KIKT to Cooper is speculation and has no bearing on the overriding public interest considerations that the Commission must consider.

10. It bears repeating that Cooper is a viable community of 2,153 persons (1990 census). As the Commission recognized, the community has its own local government with a mayor and a city council,³ police department, fire station, post office and zip code (75432). The community has its own housing authority, water treatment plant, independent school district, church, a variety of businesses and health facilities. Cooper is the seat of Delta County. Thus, Cooper is deserving of its first local service and since no other channels are available, it would serve the public interest to authorize KIKT to serve Cooper.

11. Cooper Radiocasting Company filed comments supporting the allotment of Channel 228C3 to Cooper because it desires to file an application for the channel. However, as indicated in paragraph 3 of the NPRM, "in accordance with Section 1.420(i) of the Commission's Rules, we shall not accept competing expressions of interest in the use of Channel 228C3 at Cooper".

2. (...continued)

not be assured that it would be able to provide service to Cooper on Channel 259A because it would be required to bid for the channel at auction.

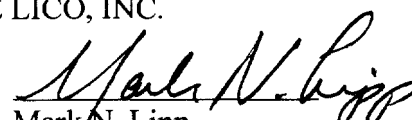
3. In its Comments, KIKT provided a letter signed by the mayor and council members in support of Cooper obtaining its own radio station. The letter was signed by 3 of the 5 council members because the other 2 members were away and unavailable to sign the letter. Attached is the same letter signed by the mayor and all five council members.

12. In conclusion, the City of Greenville has failed to demonstrate that based on any case precedent or Commission policy, Station KIKT should remain at Greenville as a second local service at the expense of providing Cooper with its first local service. On the other hand, KIKT has demonstrated that the Commission has consistently applied its priorities to favor a first local service despite any population disparity or the degree of coverage of a remaining AM station. Accordingly, KIKT urges the Commission to grant the reallocation of Channel 228C3 to Cooper, Texas and modify the license of Station KIKT.

Respectfully submitted,

KRBE LICO, INC.

By:


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Its Counsel

June 14, 2000

THE CITY OF COOPER

91 N. SIDE SQUARE
COOPER, TEXAS 75432

Richard C. Huie
Mayor

(903) 395-2217

May 25, 2000

Federal Communications Commission
Washington D.C. 20554

To The Commission:

We, the undersigned, support moving radio station KIKT from Greenville, Texas to Cooper, Texas. As you are aware, there is no radio station licensed to Delta County. Having a local radio station would allow the community to publicize local events and improvement community awareness. We appreciate your consideration on this matter.

Richard Huie
Mayor, Richard Huie

JoAnn Preas
Council Member, JoAnn Preas

Scott Stegall
Council Member, Scotty Stegall

Larry Vandiver
Council Member, Larry Vandiver

D. R. Toon
Council Member, Darryl Toon

Willy Wilkins
Council Member, Willy Wilkins



TECHNICAL EXHIBIT
IN SUPPORT OF NOTICE OF PROPOSED RULEMAKING
TO AMEND THE FM TABLE OF ALLOTMENTS
GREENVILLE AND COOPER, TEXAS

Technical Narrative

This technical narrative and associated exhibits have been prepared on behalf of FM station KIKT(FM) (herein "Petitioner") in support of the Notice of Proposed Rulemaking to amend Section 73.202(b) by the reallocation of channel 228C3 from Greenville, Texas to Cooper, Texas and the modification of the license of KIKT on channel 228C3 at Greenville, accordingly.¹

The purpose of this exhibit is to discuss (1) the alleged nighttime *New Underserved Area* created by the proposed Petition, (2) the nighttime coverage of KGVL(AM) in Greenville and (3) why Channel 259A, recently allocated to Sulphur Bluff, Texas cannot be allocated to Cooper, Texas.

Also provided herein is an alternate reference site for Cooper which would provide service to the alleged nighttime *New Underseved Area*.

Nighttime Service of Alleged New Underserved Area

The City of Greenville, in its filed comments, alleges that implementation of the proposed facility would create a *New Underserved Area* with only four remaining aural nighttime services. However, the undersigned

¹ See FCC File Number: BLH-961220KB.

instead believes that five aural nighttime services would be remaining.

Figure 1 is a map which depicts the 1 mV/m gain and loss areas and the other aural (FM, AM) services available to the gain and loss areas.² The alleged New Nighttime Underserved Area is shown by the cross-hatching.

The five stations servicing the alleged New Nighttime Underserved Area shown in Figure 1 are tabulated below:

Station	Facilities
KLIF(AM) Dallas, TX ³	570 kHz 5 kW-U DA-2
KRLD(AM) Dallas, TX ⁴	1080 kHz 50 kW-U DA-N
WBAP(AM) Fort Worth, TX ⁵	820 kHz 50 kW-U ND-1
KETR(FM) Commerce, TX	205C1 100 kW 116 M
KEMM(FM) Commerce, TX	277C2 50 kW 150 M

² The determination of available reception services was based on the criteria set forth in footnote 1 of the Notice of Proposed Rule Making in MM Docket No. 96-219 (DA 96-1774; adopted October 25, 1996, released November 1, 1996).

³ The KLIF(AM) Nighttime Interference-Free (NIF) contour value of 3.5 mV/m was employed. This value was calculated by considering the individual contributions from TISBJ with 2.016 mV/m; KWTO at Springfield, Missouri with 1.745 mV/m; WIBW at Topeka, Kansas with 1.610 mV/m; and WWNC at Asheville, North Carolina with 1.605 mV/m.

⁴ Class A Clear Channel station. Therefore, 0.5 mV/m Groundwave Contour employed.

Nighttime Coverage of KGV L(AM) Greenville, Texas

The City of Greenville alleges that the nighttime coverage of KGV L(AM) within Greenville is poor. However, by evaluating the nighttime interference-free (NIF) coverage map provided within the City of Greenville comments, it was calculated that the contour encompasses 80.7% and 95.9% of the of the Greenville city limit area and population, respectively. This corresponds to an area of 51.3 square kilometers and a population of 22,115 persons.⁵

Pursuant to Section 73.24(i) of the Commission's Rules, only 80% of the principal community is required to be encompassed by the 5 mV/m nighttime contour or nighttime interference-free (NIF) contour, whichever is greater. The existing KGV L(AM) facility satisfies this Commission requirement.

Sulphur Bluff, Texas Allotment

The Commission recently allocated Channel 259A to nearby Sulphur Bluff, Texas.⁶ It should be noted that this allotment could not have been allocated to Cooper, Texas since the city grade contour would not have completely encompassed Cooper. Figure 2 is an Area-to-Locate map for Channel 259A. It can be seen that the furthest point to Cooper from a nearest fully-spaced reference point is 17.8 kilometers. For a Class A station, the maximum city grade reference contour extends 16.2 kilometers. Therefore, since the distance to Cooper

⁵ The population is based on the 1990 U.S. Census of Housing and Population. The total population of Greenville is 23,071 persons over an area of 63.6 square kilometers.

⁶ See Report and Order in MM Docket No. 99-287, Released June 9, 2000.

is greater than 16.2 kilometers, the Channel 259A allocation could not have been made to Cooper.

Alternate Cooper Reference Site

The attached Figure 3 is a tabulation of the required separations pertinent to the use of an alternate reference site for Channel 228C3 at Cooper. The alternate reference site complies with the Commission's minimum distance separation requirements contained in Section 73.207 to all existing, authorized and proposed stations and allotments. Operation from the reference site will provide the requisite city grade signal to all of Cooper.⁷

Below are the alternate Cooper reference site geographic coordinates:

33° 14' 16" North Latitude
95° 47' 50" West Longitude

As shown in Figure 4, from the alternate Cooper reference site, Channel 228C3 would encompass the alleged nighttime *New Underserved Area*. Furthermore, the alternate site would provide 60 dBu (1 mV/m) service to its present principal community of Greenville.

The gain area would encompass 1,900 square kilometers with a population of 28,170 persons. The loss area would also encompass 1,900 square kilometers containing 37,600 persons according to the 1990 U.S. Census of Population and Housing.

⁷ The distance from the alternate Cooper site to the furthestmost point of the Cooper City Limits is 19.2 km. For a Class C3 facility, the reference city grade contour extends 23.2 km. Therefore, the alternate Cooper reference coordinates clearly provide city coverage to Cooper, Texas.

Charles A. Cooper

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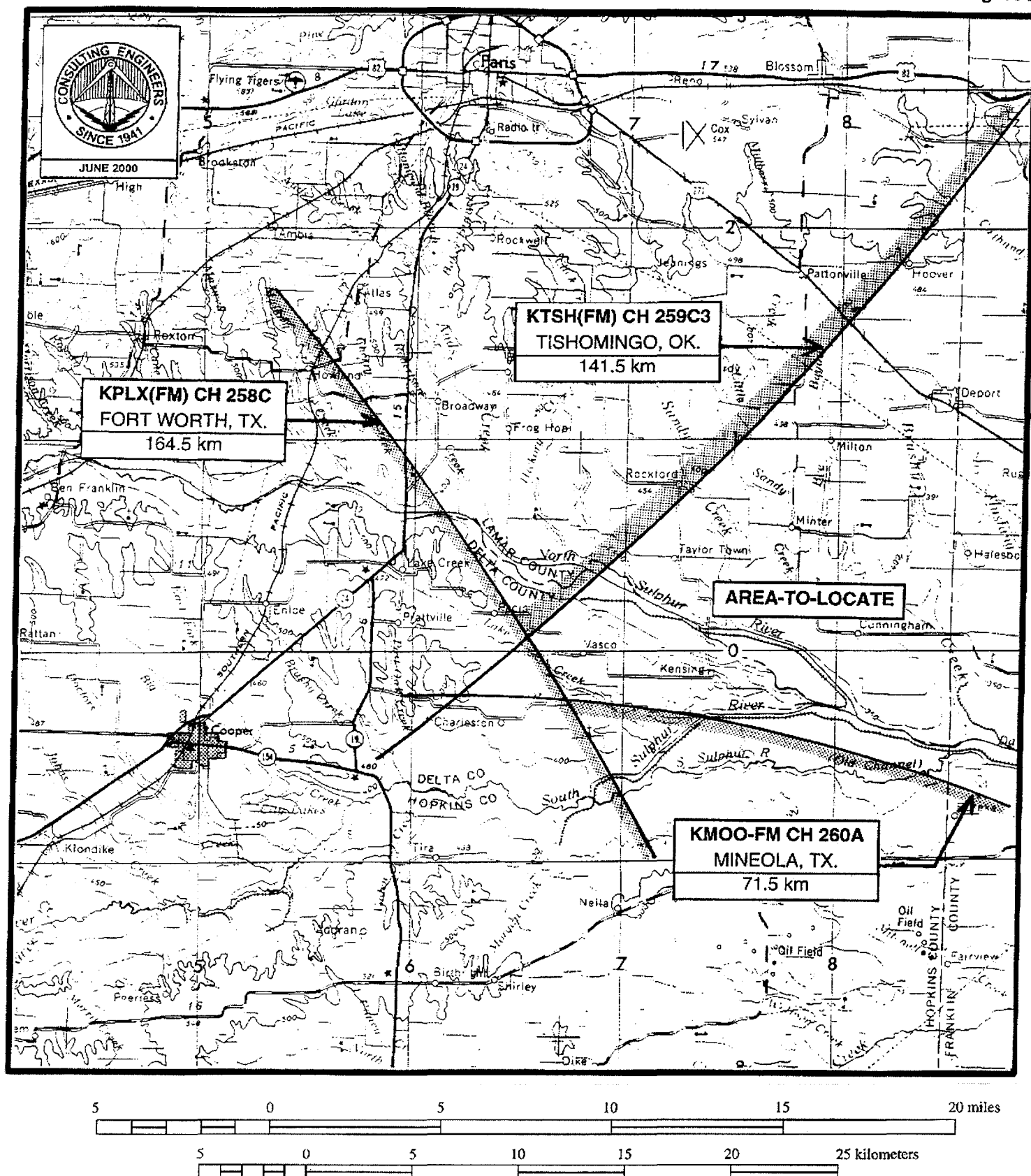
June 13, 2000

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PREPARED FOR
KRBE LICO, INC.

du Treil, Lundin & Rackley, Inc., Sarasota, Florida

Figure 2



CH 259A AREA-TO-LOCATE MAP

PREPARED FOR
KRBE LICO, INC.

du Treil, Lundin & Rackley, Inc. Sarasota, Florida

TECHNICAL EXHIBIT
IN SUPPORT OF NOTICE OF PROPOSED RULEMAKING
TO AMEND THE FM TABLE OF ALLOTMENTS
GREENVILLE AND COOPER, TEXAS

Channel 228C3 Alternate Reference Site Allocation Study

33° 14' 16" North Latitude
95° 47' 50" West Longitude

Call Status	City State	FCC File No.	Channel Freq.	ERP(kW) HAAT(m)	Latitude Longitude	Bearing deg-Tru	Dist. (km)	Req. (km)
KMKT LIC	Bells TX	BLH970815KB	226C3 93.1	6.8 191.0	33-41-31 96-26-36	310.3	78.40	43
KKMR APP	Haltom City TX	BMPH990820IB	227C2 93.3	50.0 DA 150.0	32-46-44 96-55-22	244.4	116.85	117
<i>(Separation distance rounds to 117 km. Therefore, no allocation preclusion.)</i>								
KKMR LIC	Haltom City TX	BLH961016KC	227C2 93.3	50.0 DA 133.0	32-48-29 97-07-52	249.3	133.44	117
KIKT APP	Greenville TX	BPH990820ID	228A 93.5	1.8 100.0	33-11-00 96-03-19	255.9	24.81	
<i>(Petitioner's proposed modification.)</i>								
KIKT LIC	Greenville TX	BLH961220KB	228C3 93.5	9.1 100.0	33-11-00 96-03-19	255.9	24.81	
<i>(Petitioner's licensed facility.)</i>								
ALC	Krum TX	Docket98-50	229C3 93.7	.0	33-26-34 97-08-08	280.8	126.66	99
KICM APP	Krum TX	BPH990624IG	229C2 93.7	50. 136.0	33-31-16 97-09-50	284.3 SS	131.01	117
KITT LIC	Shreveport LA	BLH840607CO	229C 93.7	100. 308.0	32-40-39 93-55-41	109.1	185.49	176
KOYN LIC	Paris TX	BLH881018KA	230C2 93.9	50. 150.0	33-49-36 95-27-49	25.2	72.30	56

PREPARED FOR
KRBE LICO, INC.

du Treil, Lundin & Rackley, Inc., Sarasota, Florida

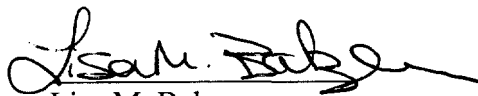
CERTIFICATE OF SERVICE

I, Lisa M. Balzer, a secretary in the law firm of Shook, Hardy & Bacon, do hereby certify that I have on this 14th day of June, 2000 caused to be mailed by first class mail, postage prepaid, copies of the foregoing "**Reply Comments**" to the following:

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Lisa M. Balzer

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